

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                         |   |              |
|-------------------------|---|--------------|
| ORVILLE BROWN           | : |              |
| Petitioner              | : |              |
|                         | : |              |
| v.                      | : | CIVIL ACTION |
|                         | : |              |
| IMMIGRATION AND         | : | NO. 02-2808  |
| NATURALIZATION SERVICE, | : |              |
| Respondent.             | : |              |

ORDER

\_\_\_\_\_ AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2002, upon consideration of the Government's Motion for Extension of Time to File a Response to Petition for Writ of Habeas Corpus, and any response thereto, the Motion is GRANTED and the Government has thirty (30) additional days in which to respond to the Petition.

BY THE COURT:

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JAMES McGIRR KELLY  
*Senior Judge, United States District Court*

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MOTION FOR EXTENSION OF TIME TO FILE RESPONSE  
TO PETITION FOR WRIT OF HABEAS CORPUS

Respondent, by its counsel, Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania, and Susan R. Becker, Assistant United States Attorney for the same district, hereby respectfully requests a thirty day extension of time in which to file a response to petitioner Orville Brown's Writ of Habeas Corpus.

Petitioner, a native and citizen of Jamaica, is challenging the final order of the Board of Immigration Appeals, dated January 28, 2002, ordering Brown removed to his native country of Jamaica based on 1996 criminal convictions in New York state. Brown filed this habeas petition on or about May 11, 2002 in the Southern District of New York. The case was transferred to the Eastern District of Pennsylvania because Brown was being detained by the Service at the Montgomery County Correctional Facility. This office was served with Brown's habeas petition on or about August 5, 2002, when the Court ordered the Service to file a response by September 5, 2002.

Undersigned counsel has since been advised by Philadelphia District Counsel for the Service that Mr. Brown's removal to Jamaica was carried out on June 13, 2002. Brown had sought, but did not receive, a stay of his removal order. Although Brown is no longer in custody, the Service nonetheless intends to respond to the merits of the issues he raises in his petition. Once an alien is removed to his native country, his immigration file is shipped from the District Office in Philadelphia to the Law Enforcement Support Center, located in Vermont. Initially, it did not appear that it would be necessary to obtain Mr. Brown's file in order to respond to his petition, as he had attached the decision of the Board of Immigration Appeals, and it seemed that the arguments he raised could be disposed based on the information contained in the Board's decision. Upon further review, one of petitioner's claims requires additional analysis, and undersigned counsel has now requested Mr. Brown's immigration file from the Law Enforcement Support Center.

There can be no further adverse consequences to petitioner by granting additional time to respond to the habeas petition, as he has already been removed to Jamaica, and petitioner and the Court can only benefit by having the full record in order to consider petitioner's claims. If the Court should determine that his petition has any merit, the Service can be ordered to bring Mr. Brown back to the United States for further adjudication of his case by an Immigration Judge.<sup>1</sup>

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<sup>1</sup> A record of petitioner's last known address in Jamaica is generally kept in the immigration file. As undersigned counsel does not currently have Mr. Brown's last known address, a copy of this motion has been forwarded to petitioner in care of the District Counsel's office, with a request that the brief be forwarded to Mr. Brown. It does not appear that Mr. Brown has independently provided the Court with a new address since his arrival in Jamaica.

Respondent therefore requests an additional thirty days, or until October 5, 2002,  
in which to respond to the Petition.

Respectfully,

PATRICK L. MEEHAN  
United States Attorney

Dated: September 5, 2002

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JAMES G. SHEEHAN  
Assistant United States Attorney  
Chief, Civil Division

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SUSAN R. BECKER  
Assistant United States Attorney  
615 Chestnut Street, Suite 1250  
Philadelphia PA 19106-4476  
(215) 861-8310 Telephone  
(215) 861-8349 Facsimile

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MEMORANDUM OF LAW IN SUPPORT OF  
DEFENDANTS' MOTION FOR EXTENSION OF TIME

Federal Rule of Civil Procedure 6 permits a reasonable extension of time to be granted upon cause shown if the request is filed before the original time period expires. The date for a response to the petition for writ of habeas corpus is September 5, 2002. Thus, this request is timely filed and the cause is set forth in the accompanying motion. For the foregoing reasons, petitioner respectfully requests that this Motion for Extension of Time to Respond be GRANTED, and respondent be given an additional thirty days, or until October 5, 2002, in which to respond to the Petition.

Respectfully,

PATRICK L. MEEHAN  
United States Attorney

Dated: September 5, 2002

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JAMES G. SHEEHAN  
Assistant United States Attorney  
Chief, Civil Division

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 5th day of September, 2002, I caused a true and correct copy of the foregoing Government's Request for Extension of Time to be served by first class mail, postage prepaid, upon the following:

Orville Brown  
c/o Office of District Counsel  
Immigration and Naturalization Service  
1600 Callowhill Street, 4<sup>th</sup>  
Philadelphia, PA 19130

Pro se petitioner

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Susan R. Becker